

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN-CHRISTOPHE LIEBESKIND, et al.,

No. C-07-3962 MMC

Plaintiffs,

**ORDER DENYING EX PARTE  
APPLICATION TO MAINTAIN HEARING  
ON MOTION TO DISMISS**

v.

ALLIANCE TITLE CO.,

Defendant

---

ALLIANCE TITLE CO.,

Cross-complainant,

v.

JEAN-CHRISTOPHE LIEBESKIND, et al.,

Cross-defendants

---

The Court is in receipt of plaintiffs' "Ex Parte Application to Maintain Hearing on Motion to Dismiss Set for November 30, 2007," filed November 29, 2007.

To the extent plaintiffs assert a hearing is necessary to address new legal issues, plaintiffs' motion is, in essence, a motion for reconsideration. So construed, the motion is denied, because plaintiffs fail to identify any cognizable ground for reconsideration. Contrary to plaintiffs' argument, the Court has previously addressed the alleged "defect of

1 failure to deposit the funds with the court,” specifically, by finding such deposit is not a  
2 jurisdictional requirement. (See Order Denying Stipulation to Transfer Funds, filed  
3 November 19, 2007, at 2:5-7.) Further, contrary to plaintiffs’ argument, a district court has  
4 discretion to award attorney’s fees to a stakeholder in an action proceeding under Rule 22  
5 of the Federal Rules of Civil Procedure. See Schirmer Stevedoring Co. v. Seaboard  
6 Stevedoring Corp., 306 F. 2d 188, 194-95 (1962) (holding district court has discretion to  
7 award plaintiff in interpleader action fees and costs from interpleaded funds).

8 To the extent plaintiffs alternatively assert that a hearing should be held because, in  
9 plaintiffs’ view, the parties have “reached an agreement even with respect to ATC’s fee  
10 claim,” (see Pl.’s Appl. at 2:18), the Court finds a hearing is unnecessary. If an agreement  
11 has been reached, the parties can present it to the Court by filing a stipulated agreement  
12 resolving all of the claims, or any of them, made herein.

13 Finally, given that a stipulated agreement has not been filed, if any party is of the  
14 view that a referral to alternative dispute resolution, in advance of the January 25, 2008  
15 Case Management Conference, would be of assistance, such party or parties may file a  
16 request for a referral.

17 Accordingly, plaintiffs’ application is hereby DENIED.

18 **IT IS SO ORDERED.**

19  
20 Dated: November 30, 2007

21   
22 MAXINE M. CHESNEY  
23 United States District Judge  
24  
25  
26  
27  
28